

REMARKS

Claims 1-6 are pending in this application after this Amendment. Claims 1 and 3 are independent. New claims 4-6 are added for consideration by the Examiner. In light of the remarks made herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1-3 under 35 U.S.C. § 103(a) as being unpatentable over *Hamamura et al.* (U.S. Patent Application No. 2003/133021) in view of *Matsuzaka* (U.S. Patent No. 6,757,013). Applicant respectfully traverses this rejection.

Prior Art Rejections

On September 19, 2005, Applicant filed a Reply After Final amending claims 1 and 3 to more appropriately recite the present invention. In the Advisory Action mailed October 6, 2005, the Examiner indicated that the proposed amendments will not be entered because they new issues which would require further consideration and/or search. On October 14, 2005, Applicant filed a Request for Continued Examination requesting entry of the amendments filed in the Reply After File on September 19, 2005.

In the outstanding Official Action, the Examiner failed to consider the amendments made to the claims. Specifically, claim 1 was amended to include a focus detecting circuit for detecting a focusing position of the focus lens on the basis of integration values of the image signal output from the imaging device. The outstanding rejection issued by the Examiner fails to address this amended claim feature. Claim 3 was similarly amended to recite detecting a focusing position of a focus lens on the basis of integration values of the image signal output from the imaging device.

As the Examiner has failed to consider the newly added claim elements, should the Examiner maintain his rejection of the claims, the Applicant respectfully requests the Examiner

do so in a new non-final Official Action so that Applicant may have a proper opportunity to reply.

Applicant maintains that neither of the references, either alone or in combination, teach this newly added claimed element. As such, it is respectfully requested that the outstanding rejection be withdrawn.

In addition to the above argument, the Examiner's motivation for combining the teachings of the cited references is improper. The Examiner asserts that one skilled in the art would be motivated to combine the teachings of *Matsuzaka* with the teachings of *Hamamura et al.* in order to provide a means for detecting the distance to a subject when the distance between the image pickup apparatus and the subject changes while an image is being captured, citing to col. 7, lines 27-31.

The disclosure of *Matsuzaka* is directed to an image pickup apparatus with electronic and optical zoom functions. The image pickup apparatus performs both electronic zooming and optical zooming simultaneously in order to compensate for the mechanical limitations of the optical zoom and to optimize the data obtained by the optical zoom. At col. 7, lines 26-36, *Matsuzaka* discloses that when the distance between the image pickup apparatus and the subject changes while the image is being captured, change between the distance to the subject (determined when the auto-zoom switch 109 has been turned on) and the present distance to the subject is detected. The distance to the subject is detected from the positions information on a focus lens. The AF means always brings the subject into focus, thus, the distance to the subject can be found by detecting the position of the focus lens.

However, there is no discussion in *Hamamura et al.* that is directed to any zoom function. As such, one skilled in the art would not be motivated to combine the teachings of *Matsuzaka*, directed to zoom functions, with the teachings of *Hamamura et al.* as there is no reason to presume the subject of *Hamamura et al.* is moving due to a zoom function.

For the reasons set forth above, it is respectfully submitted that the Examiner has failed to establish *prima facie* obviousness by failing to provide references that teach or suggest all the claimed elements and by further failing to provide proper motivation in support of the purported combination. It is respectfully requested that the outstanding rejection be withdrawn.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: March 15, 2006

Respectfully submitted,

By 

Michael R. Cammarata

Registration No.: 39,491

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant